P.R. No. 17/1/06
Presented by Shri V.R. Tiwari
dated 23.1.06

CA 1081

IN THE HIGH COURT OF JUDICATURE AT BILASPUR
CHHATTISGARH Single Bench

SECOND APPEAL NO. 09 OF 2006

APPELLANT PLAINTIFF : Badri Prasad Mishra, Aged about 43 years, S/o Shri Shankarlal Mishra, R/o Kota, District Raipur (CG)

Versus

RESPONDENTS DEFENDANTS :

1. State of Chhattisgarh Through Collector, Raipur (CG)
2. Additional Tahsildar / Sub Divisional Officer, Public Works Department, Building and Roads Division No. 1, Raipur (CG)
3. Nazul Officer, Tahsil & Distt-Raipur (CG)

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31.1.06
CLERK H. C. BILASPUR

SECOND APPEAL UNDER SECTION 100 OF THE CODE OF CIVIL PROCEDURE.

XI-HC-22

(2)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

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आदेश पत्रक

मामला क्रमांक S.A. 01 सन् 2006

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	08.02.2006 Shri HS Patel, counsel for the appellant. Shri JD Bajpai, Government Advocate for respondents. Heard on admission and M.(C.)P.No.14/2005. The appellant filed a suit for declaration and permanent injunction on the ground that the suit land bearing Khasra No.218, area 30 X 22 Sq Ft has been granted to him by the Revenue Authority on temporary lease up to 31.03.1993. He filed an application for renewal before expiry of the lease period, despite that, without passing any order on his application on 18.02.1997; Revenue Authority interfered with his possession. Respondents denied the claim of the appellant and pleaded that no application for renewal before expiry of the lease period has been filed by the appellant. The temporary lease was granted on the condition that whenever the land will be required by the Government, or any condition of the lease will be violated by the appellant, the lease shall be liable to be terminated. The appellant willfully disobeyed the conditions of the lease and has no right of renewal. The land is required by the Government for widening the highway.	

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XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

24

आदेश पत्रक

मामला क्रमांक S.A. 04 सन् 2006

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	Both the Courts below have dismissed the relief sought by the appellant. It has been held that no application for renewal has been filed before expiry of lease period i.e.31.03.1993. The land was required in the public interest for widening the highway. After expiry of the period of lease, the possession of the appellant was of an encroacher, therefore, he was removed from the un-authorised possession in the years 1997. It has also been held that the appellant violated the condition of lease by installing super structure and permanent construction. From the plaint itself, it is clear that the appellant was allotted the suit land temporarily up to 31.03.1993. On 17.06.1993, he was served with a notice to remove the construction made by him from the suit land. It is established from the evidence that in February 1997, the appellant was removed from the suit land. The appellant has proposed the following substantial questions of law in his memo of appeal :- 1) Whether the learned Court below justified by giving a finding that the pendency of the renewal application of lease the tenant has no right ?	

[पीछे देखिये

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक S.A. 04 सन् 2006

विरुद्ध

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	2) Whether the learned both the Courts below erred in not considering the position of the plaintiff / appellant over the land in question since 1983 ? The Court below, by appreciation of evidence, held that no application for renewal has been filed before expiry of the lease period. After expiry of the lease period, possession over the suit land was un-authorised. Therefore, taking into consideration the facts, evidence and finding of the Courts below, I am of the opinion that no substantial question of law involves in the present appeal. Therefore, the Second appeal filed by the appellant is deserves to be dismissed and is accordingly dismissed. M.(C.)P.No.14/2006 & IA No.34/2006 stand disposed of. Sd/- V.K.Shrivastava Judge	

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